

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JONATHAN BEALE,

Defendant.

4:22-CR-3142

MEMORANDUM AND ORDER

This matter is before the Court on the Magistrate Judge's Findings and Recommendation on a Guilty Plea recommending that the Court accept the defendant's plea of guilty. There are no objections to the findings and recommendation. Pursuant to [28 U.S.C. § 636\(b\)\(1\)\(C\)](#) and [NECrimR 11.2\(d\)](#), the Court has conducted a de novo review of the record and adopts the findings and recommendation of the Magistrate Judge.<sup>1</sup>

IT IS ORDERED:

1. The Magistrate Judge's Findings and Recommendation on a Guilty Plea (filing 116) are adopted.
2. The defendant is found guilty. The plea is accepted. The Court finds that the plea of guilty is knowing, intelligent, and voluntary, and that a factual basis exists for the plea.

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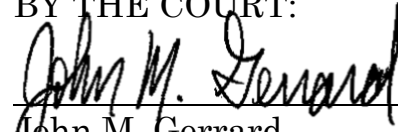
<sup>1</sup> The Court notes that at the change of plea hearing, the Magistrate Judge did not inform the defendant of "any applicable forfeiture," *see* [Fed. R. Crim. P. 11\(b\)\(1\)\(J\)](#), despite a pending forfeiture allegation, *see* filing 80 at 3-4. But the defendant doesn't have a plea agreement and didn't admit the forfeiture allegation as part of his plea—so, at this point, the defendant retains his right to contest the forfeiture allegation, and the Court doesn't view the omission from the plea colloquy as material.

That said, the defendant was advised of a possible fine of up to \$10 million for the charge to which he pled guilty, meaning that any failure to advise him of the possible forfeiture of \$5,935 would also be harmless error, not affecting the voluntariness of the plea. *Cf. United States v. Molzen*, 382 F.3d 805, 806 (8th Cir. 2004).

3. This case shall proceed to sentencing.

Dated this 18th day of September, 2023.

BY THE COURT:

A handwritten signature in black ink, appearing to read "John M. Gerrard", is written over a horizontal line.

John M. Gerrard  
Senior United States District Judge